

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
BEAUFORT DIVISION

Rodney E. Cotton, Jr.)	
)	
Plaintiff,)	
)	Civil Action No. 9:19-cv-1196-TMC
v.)	
)	
Major Patricia Ray and Damarcus Cooks,)	ORDER
)	
Defendants.)	

Plaintiff, proceeding *pro se* and *in forma pauperis*, filed this 42 U.S.C. § 1983 action alleging that Defendants Major Patricia Ray and Damarcus Cooks (“Defendants”) violated his constitutional rights. (ECF No. 1). In accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02, D.S.C., this matter was referred to a magistrate judge for pretrial handling. On June 11, 2019, the magistrate judge authorized service, to be completed by the United States Marshal. (ECF No. 6). The summonses were returned executed and were filed with the court on July 8, 2019. (ECF No. 11). However, neither Defendant filed a responsive pleading. On August 29, 2019, Plaintiff filed a motion for default judgment. (ECF No. 16). The magistrate judge ordered the Clerk to send a copy of the motion separately to both Defendants as well as to the County Attorney. (ECF No. 17).

On September 18, 2019, the County Attorney, appearing on behalf of Defendants, filed a motion for extension of time to file an answer (ECF No. 19) and a response in opposition to the motion for default judgment (ECF No. 20). Before the court is the magistrate judge’s Report and Recommendation (“Report”), recommending that the court deny Plaintiff’s motion for default

judgment and grant Defendants' motion for an extension of time to answer. (ECF No. 21). Plaintiff was advised of his right to file objections to the Report. *Id.* at 4. However, Plaintiff filed no objections to the Report, and the time to do so has now run. On October 15, 2019, Plaintiff filed a second motion for default judgment. (ECF No. 25).

The Report has no presumptive weight and the responsibility to make a final determination in this matter remains with this court. *See Mathews v. Weber*, 423 U.S. 261, 270–71 (1976). In the absence of objections, this court is not required to provide an explanation for adopting the Report. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Rather, “in the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee’s note).

The court notes that while Plaintiff filed a second motion for default judgment on October 15, 2019, such motion did not contain any sort of objection to the Report. (ECF No. 25). Accordingly, finding no clear error, the court adopts the magistrate judge’s Report (ECF No. 21), which is incorporated herein by reference. Accordingly, Plaintiff’s motion for default judgment (ECF No. 16) is **DENIED**, and Defendants’ motion for an extension of time to answer (ECF No. 19) is **GRANTED**. Defendants shall have fourteen days from the entry of this order to file a responsive pleading.

As to Plaintiff’s second motion for default judgment (ECF No. 25), Plaintiff argues that Defendants have not responded to the court within the time frame of their fourteen-day extension and that, therefore, the court should enter a default judgment against them. It appears Plaintiff is referring to the fourteen-day extension that the magistrate judge recommended that the

undersigned grant Defendants, which will begin to run after entry of this order. Accordingly, the court **DENIES as moot** Plaintiff's second motion for default judgment (ECF No. 25).

IT IS SO ORDERED.

s/Timothy M. Cain
United States District Judge

Anderson, South Carolina
October 24, 2019

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.